

**MAIL TO:**

STATE OF UTAH  
DIVISION OF PURCHASING  
3150 STATE OFFICE BUILDING, CAPITOL HILL  
P.O. BOX 141061  
SALT LAKE CITY, UTAH 84114-1061  
TELEPHONE (801) 538-3026  
<http://www.purchasing.state.ut.us>

**Invitation to Bid**Solicitation Number: **BV3903**Due Date: **11/05/02 at 2:00 P.M.**

Date Sent: October 15, 2002

**Statewide Contract**Goods and services to be purchased: **STATEWIDE CONTRACT FOR MENS WHITE TUBE SOCKS****Please complete**

|   |                                |  |                 |
|---|--------------------------------|--|-----------------|
| Company Name  |                                | Federal Tax Identification Number  |                 |
| Ordering Address  | City                           | State  | Zip Code        |
| Remittance Address (if different from ordering address)   | City                           | State  | Zip Code        |
| Type<br><input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government   | Company Contact Person         |  |                 |
| Telephone Number (include area code)  | Fax Number (include area code) | Email Address  |                 |
| Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)   |                                | Days Required for Delivery After Receipt of Order (see attached for any required minimums) |                 |
| Brand/Trade Name  |                                | Price Guarantee Period (see attached specifications for any required minimums)             |                 |
| Minimum Order   |                                | Company's Internet Web Address   |                 |
| <p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah.<br/>Yes____ No____. If no, enter where produced, etc._____</p> |                                |  |                 |
| Offeror's Authorized Representative's Signature   |                                | Print or type name and title   | Date            |
| State of Utah Division of Purchasing Approval<br><br>Douglas G. Richins, Director   |                                | Date   | Contract Number |

**STATE OF UTAH**  
**DIVISION OF PURCHASING**

**Invitation to Bid**

Solicitation Number: BV3903

Due Date: 11/05/02

Vendor Name:

| Item# | Description   | Price Per Dozen |
|-------|---|-----------------|
| 001   | STATEWIDE CONTRACT FOR MEN'S WHITE TUBE SOCKS PER THE ATTACHED SPECIFICATIONS AND TERMS AND CONDITIONS. <ul style="list-style-type: none"><li>• REMINDER: SAMPLE IS REQUIRED AT THE SAME TIME AS THE BID IS DUE.</li><li>• REMINDER: F.O.B. DESTINATION, FREIGHT MUST BE INCLUDED IN THE PRICE PER DOZEN.</li></ul> | \$              |

## INVITATION TO BID - INSTRUCTION AND GENERAL PROVISIONS

1. **BID PREPARATION:** (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. (c) Unit price will govern, if there is an error in the extension. (d) Delivery time is critical and must be adhered to as bid. (e) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or approved equal" apply. "Or approved equal" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the Division of Purchasing & General Services (DIVISION). If the bidder lists a trade name and/or catalog number in the bid, the DIVISION will assume the item meets the specifications unless the bid clearly states it is an alternate, and describes specifically how it differs from the item specified. **MULTIPLE OR ALTERNATE BIDS WILL NOT BE ACCEPTED UNLESS SO STATED IN THE SPECIFICATIONS.** (f) By signing the bid the bidder certifies that all of the information provided is accurate, and that prices bid are correct. (g) This bid may not be withdrawn for a period of 60 days from bid due date.

2. **SUBMITTING THE BID:** (a) The bid must be signed in ink, sealed in a properly-addressed envelope, and either mailed or delivered to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." **The "Bid Number" and "Due Date" must appear on the outside of the envelope.** (b) Bids, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-109. (c) **Your bid will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of bids to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the bid for consideration and approval by the DIVISION. Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION. (e) All State purchases are subject to the Utah Procurement Code, Title 63, Chapter 56 Utah Code Annotated 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board (Utah Administrative Code Section R33).

3. **FAILURE TO BID:** Failure to respond may result in the removal of your firm from the bidder's list for the commodity(s) listed, unless you advise DIVISION in writing prior to due date that you desire to receive future invitations to bid on this commodity(s). **Three consecutive no responses will automatically result in removal.**

4. **PROPRIETARY INFORMATION:** Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for nondisclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any bid will not be considered proprietary. Bids submitted may be reviewed and evaluated by any persons at the discretion of the state.

5. **BONDS:** The state has the right to require a bid bond, payment bond and/or a faithful performance bond from the bidder in an amount not to exceed the amount of the contract.

6. **SAMPLES:** Samples of item(s) specified in this bid, when required by DIVISION, must be furnished free of charge to DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the bidder's expense.

7. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and

mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

8. **DIVISION APPROVAL:** Purchase orders placed, or contracts written, with the state of Utah, as a result of this bid, will not be legally binding without the written approval of the director of the DIVISION.

9. **AWARD OF CONTRACT:** (a) the contract will be awarded with reasonable promptness, by written notice, to the lowest responsible bidder that meets the specifications. Consideration will be given to the quality of the product(s) to be supplied, conformity to the specifications, the purpose for which required, delivery time required, discount terms and other criteria set forth in this invitation to bid. (b) The bids are opened publicly in the presence of one or more witnesses. the name of each bidder, and the amount of the bid is recorded. Each bid, and the record, is open to public inspection. (c) The DIVISION may accept any item or group of items, or overall low bid. the DIVISION has the right to cancel this invitation to bid at any time prior to the award of contract. (d) The DIVISION can reject any and all bids. And it can waive any informality, or technicality in any bid received, if the DIVISION believes it would serve the best interest of the State. (e) Before, or after, the award of a contract the DIVISION has the right to inspect the bidder's premises and all business records to determine the holder's ability to meet contract requirements. (f) DIVISION does not guarantee to make any purchase under awarded contract(s). Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (g) Utah has a reciprocal preference law which will be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

10. **ANTI-DISCRIMINATION ACT:** The bidder agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also bidder agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

revision date: 2/14/2000

## **INVITATION TO BID # BV3903**

### **MEN'S WHITE TUBE SOCKS November 2002**

#### **1. INTRODUCTION**

The State of Utah, Division of Purchasing & General Services, is soliciting competitive bids to secure a state contract to provide men's white tube socks for inmates incarcerated with the Utah State of Utah Prison in Draper, Utah and the correctional facility in Gunnison, Utah and for patients at the Utah State Hospital. All specifications and instructions are in addition to the Standard Terms and Conditions (attachment A) attached.

#### **2. PURPOSE**

The purpose of this Invitation to Bid (herein ITB) is to establish a contract for the purchase of men's white tube socks for inmates incarcerated with the Utah State of Utah Prison in Draper, Utah and the correctional facility in Gunnison, Utah and for patients at the Utah State Hospital.

The Division of Purchasing reserves the right to award this contract as a single award, a primary and secondary award or as a multi award, whichever may be most advantageous to the State of Utah.

State agencies with a requirement that is not met by the contract that may result from this ITB will meet their needs through the competitive solicitation process on an as-needed basis.

#### **3. PROCUREMENT MANAGER (ALSO CONTRACT MANAGER)**

The Procurement Manager (and subsequent Contract Manager) designated by the State of Utah, Division of Purchasing & General Services is:

Brenda Veldevere  
State of Utah  
Division of Purchasing & General Services  
State Office Building, Capitol Hill  
Room 3150  
Salt Lake City UT 84114-1061

[bveldevere@utah.gov](mailto:bveldevere@utah.gov)

voice: (801) 538-3142  
fax: (801) 538-3882

#### **4. RELEVANT WEBSITE:**

The website for the State of Utah, Division of Purchasing & General Services, which includes procurement related information for the State of Utah, and all current solicitations, with each complete solicitation and any addenda, in PDF format is: <http://www.purchasing.utah.gov>. This site will also host the contract information for the contract that may result from this ITB.

#### **5. QUESTIONS:**

Bidders with questions regarding the specifications may contact Penni Green at (801) 576-7780. Bidders with questions regarding purchasing procedures not related to the

specifications, may contact the procurement manager, Brenda Veldevere at (801) 538-3142.

**6. SUBMISSION OF BID:**

One (1) sealed hard copy of the ITB and sample will be accepted until 2:00 p.m. on Tuesday, November 5, 2002, at the following location only:

State of Utah  
Division of Purchasing & General Services  
State Office Building, Capitol Hill  
Room 3150  
Salt Lake City UT 84114-1061

Attention: Brenda Veldevere

No responses will be accepted after that date and time. ITB's will not be accepted via fax or by email. The sealed ITB is to have "**ITB #BV3903 Men's White Tube Socks**" clearly marked on the outside of the envelope.

**7. CHANGES OR MODIFICATIONS OF PROCUREMENT:**

Any changes or modification to this ITB will only be accomplished in a written addendum from the Division of Purchasing. Any other form is not binding. Bidders submitting a bid based on any information other than that which is contained in this ITB, or any addendum thereto, do so at their own risk.

**8. CANCELLATION OF PROCURMENT:**

This ITB may be canceled at any time if the State of Utah, Division of Purchasing & General Services determines such action to be in the best interest of the State of Utah.

**9. GOVERNING LAWS AND REGULATIONS:**

This procurement is conducted by the State of Utah, Division of Purchasing & General Services, in accordance with the Utah Procurement Code, Title 63, Chapter 56 Utah Code Annotated 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board (Utah Administrative Code Section R33). These are available at the Internet website for the State of Utah's Division of Purchasing & General Services (see item 00 for Internet address).

**10. HISTORICAL USAGE:**

Usage is approximately 8200 dozen per year. This information is for bidding purposes only and is not to be construed as a guarantee to purchase any amount from the contract that may result from this ITB.

The Utah State Prison and the Central Utah Correctional Facility in Gunnison Utah and the Utah State Hospital will be the main users of the contract that may result from this ITB. However, higher education, cities and towns, public education, counties and special service districts are welcome to use this contract if it meets their needs.

**11. DELIVERY REQUIREMENTS:**

Orders must be received within 30 calendar days of ARO.

**12. TERM OF CONTRACT:**

It is the intent of the State of Utah to enter into a contract with the successful bidder for a two (2) year period. Initial term of the contract would be from **February 1, 2003 through January 31, 2005**. Contract may be renewed, at the State of Utah's option, for three (3)

additional one (1) year periods. Contract potential is five (5) years, including all renewal options.

**13. PRICE GUARANTEE:**

All pricing must be guaranteed for one year. Any price increase thereafter can only be a direct price pass through from the manufacturer and must be submitted to the contract manager at the Division of Purchasing for approval. All price increases requests must be accompanied by official and sufficient supporting documentation from the manufacturer and must be made thirty days prior to the effective date.

**14. PRICE REDUCTION:**

It is understood and agreed that in the event of a reduction in the manufacturer's price, the State of Utah will be given the full benefit of such decrease in price immediately upon effective date of the reduction. Contractor's failure to notify the Contract Manager at the Division of Purchasing & General Services of any manufacturer's price decrease may result in the cancellation of the contract.

**15. FREIGHT TERMS OF SALE F.O.B. DESTINATION, FREIGHT PREPAID:**

Contractor shall ship all products F.O.B. Destination, freight included in the product price. Please see attachment A – Standard Terms and Conditions for further freight terms information.

**16. MINIMUM ORDER:**

The minimum order is no more than 15 dozen pairs.

**17. MANDATORY QUARTERLY USAGE REPORTS**

Contractor is required to provide quarterly contract usage reports to the Contract Manager at the Division of Purchasing & General Services within thirty days after the end of each calendar quarter. The quarters will end on March 31, June 30, September 30 and December 31, of each year during the life of the contract. Initiation and submission of the quarterly reports are to be the responsibility of the contractor without prompting or notification by the contract manager. **Failure to comply with this quarterly usage report requirement may result in the termination of the contract for cause.**

Bidder shall identify below the name of the individual responsible for the preparation of the mandatory usage reports:

NAME:

MAILING ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

EMAIL ADDRESS:

## **MINIMUM SPECIFICATIONS**

**White**

**First quality, no irregulars or seconds**

**Absorbent blend of 80% cotton/ 20% poly**

**Weight 2 ½ to 3 oz per pair**

**Tube construction**

**No heal design**

**Soft cushioned foot**

**Standard over the calf length 21-23 inches in length**

**Welt top no less than quarter of an inch**

**Sized to fit 10-13**

**Packaging Preference for Dept. of Corrections: 12 pairs per poly bag 12 dozen per case. Other ordering agencies may have other packaging preferences.**

**Samples will be measured and weighed. Please do not bid a sock that clearly does not meet the minimum specifications; this is a waste of your bid preparation time and a waste of valuable time during the evaluation process.**

**SAMPLE – ONE COMPLETE PAIR OF THE EXACT SOCK THAT YOU ARE BIDDING MUST BE INCLUDED WITH YOUR BID DOCUMENTS. BIDDERS THAT DO NOT PROVIDE A SAMPLE (or provide a sample late) MAY BE CONSIDERED NON-RESPONSIVE AND NOT CONSIDERED FOR AN AWARD.**

**Standard Contract Terms and Conditions**  
**State of Utah, Statewide Contracts**  
**ATTACHMENT A (Invitation for Bids)**

**1. AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the STATE to purchase certain specified services, and other approved purchases for the STATE.

**2. CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.

**3. LAWS AND REGULATIONS:** Any and all supplies, services and equipment proposed and furnished will comply fully with all applicable Federal and State laws and regulations.

**4. RECORDS ADMINISTRATION:** The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records will be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

**5. AUDIT OF RECORDS:** The Contractor agrees to allow the State and Federal auditors, and State agency staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

**6. CONFLICT OF INTEREST:** Contractor certifies that it has not offered or given any gift or compensation prohibited by the laws of the state of Utah to any officer or employee of the state or participating political subdivisions to secure favorable treatment with respect to being awarded this contract.

**7. INDEPENDENT CONTRACTOR:** Contractor will be an independent Contractor, and as such will have no authorization, express or implied to bind the State to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as expressly set forth herein. Compensation stated herein will be the total amount payable to the Contractor by the State. The Contractor will be responsible for the payment of all income tax and social security tax due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State will not be deemed to be employees or agents of the Contractor.

**8. HOLD HARMLESS:** The Contractor will release, protect, indemnify and hold the State and the respective political subdivisions and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the Contractor, his employees or subcontractors or volunteers.

**9. EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.

**10. SEVERABILITY:** If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and the rights and obligations of the parties will be construed and enforced as if the contract did not contain the particular provision held to be invalid.

**11. AMENDMENTS:** The terms of this contract will not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the State Director of Purchasing.



**12. DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the STATE.

**13. CANCELLATION:** Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled without cause by the State upon 60 days notice, in writing, prior to the effective date of the cancellation. Cancellation may be in whole or in part. Cancellation of the contract due to Contractor default may be immediate.

**14. TAXES:** Bid prices will be exclusive of state sales, use and federal excise taxes. The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract, or contract orders. The State of Utah's Federal excise exemption number is 87-780019K.

**15. WARRANTY:** The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the Contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The Contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

**16. PARTICIPANTS:** This is a contract to provide the State of Utah government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) with the goods and/or services described in the bid.

**17. POLITICAL SUBDIVISION PARTICIPATION:** Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) will be voluntarily determined by the political subdivision. The Contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

**18. QUANTITY ESTIMATES:** The State does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for bidding purposes only and are not to be construed as a guarantee to purchase any amount.

**19. DELIVERY:** The prices bid will be the delivered price to any state agency or political subdivision. All deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered will be shipped without charge.

**20. REPORTS:** The Contractor will submit quarterly reports to the State Purchasing Agent showing the quantities and dollar volume of purchases by each agency and political subdivision.

**21. PROMPT PAYMENT DISCOUNT:** Offeror may quote a prompt payment discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date will be the date of acceptance of the merchandise.

**22. FIRM BID PRICES:** Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of bid opening.

**23. PRICE GUARANTEE, ADJUSTMENTS:** The contract pricing resulting from this bid will be guaranteed for the period specified. Following the guarantee period, any request for price adjustment must be for an equal guarantee period, and must be made at least 30 days prior to the effective date. Requests for price adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the contract will not be effective unless approved by the State Director of Purchasing. The State will be given the immediate benefit of any decrease in the market, or allowable discount.

**24. ORDERING AND INVOICING:** Orders will be placed by the using agencies directly with the Contractor. All orders will be shipped promptly in accordance with the delivery guarantee. The Contractor will then promptly submit invoices to the ordering agency. The state contract number and the agency ordering number will appear on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices on file with the Division of Purchasing. The State has the right to adjust any invoice reflecting incorrect pricing.

**25. PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments may be made via a State of Utah (or political subdivision) APurchasing Card.® All payments to the Contractor will be remitted by mail unless paid by Purchasing Card.

**26. MODIFICATION OR WITHDRAWAL OF BIDS:** Bids may be modified or withdrawn prior to the time set for the opening of bids. After the time set for the opening of bids no bid may be modified or withdrawn.

**27. BID PREPARATION COSTS:** The State is not liable for any costs incurred by the bidder in bid preparation.

**28. INSPECTIONS:** Goods furnished under this contract will be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or not in compliance with bid specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph will adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

**29. PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.

**30. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State Director of Purchasing.

**31. DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy

provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend Contractor from receiving future bid solicitations.

**32. FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

**33. HAZARDOUS CHEMICAL INFORMATION:** The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

**34. NON-COLLUSION:** By signing the bid the bidder certifies that the bid submitted has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition.

**35. PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, as far as distribution of copies, and Contractor gives the STATE express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, or copyright information.

**36. CONFLICT OF TERMS:** In the event of any conflict between these standard terms and conditions and any special terms and conditions which follow, the special terms and conditions will govern.

Revision date: 3/14/2002